

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION ) MDL No. 1456  
 ) Master File No. 01-12257-PBS  
 )  
 ) Judge Patti B. Saris  
 )  
THIS DOCUMENT RELATES TO: )  
State of California, *ex rel.* Ven-A-Care v. )  
Abbott Laboratories, Inc., *et al.* )  
CASE No: 1:03-cv-11226-PBS )  
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**STATUS REPORT-AUGUST 1, 2007**

The undersigned counsel, on behalf of plaintiff STATE OF CALIFORNIA ("CALIFORNIA") hereby submits the attached Status Report to the Court in accordance with the Court's June 17, 2004 Procedural Order.

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General for the State of California

Dated: August 1, 2007

By: /s/ Nicholas N. Paul  
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**Attorneys for Plaintiff,  
STATE OF CALIFORNIA**

**MDL 1456 Status Report**

**State of California, ex rel. Ven-A-Care v. Abbott Laboratories Inc., et al.**  
**Case No.: 1:03-cv-11226-PBS**

**First Amended Complaint in Intervention**

Plaintiffs filed a First Amended Complaint in Intervention (FAC), with redacted exhibits, on August 25, 2005 (No. 1679). Plaintiffs also filed a motion for leave to file unredacted Exhibits under seal (Exhibits A-K and Exhibits M-R to the FAC) (Nos. 1680, 1703), which the Court granted via electronic order.

**Motions to Dismiss**

On January 17, 2006, Defendants filed a Joint Motion to Dismiss Plaintiffs' First Amended Complaint in Intervention (Nos. 2047, 2051).

On March 22, 2007, the Court denied in part and granted in part Defendants' joint motion to dismiss, and denied Abbott's individual motion to dismiss (No. 3948). The Court has not yet ruled on two remaining individual motions to dismiss (i.e., those of defendants ZLB Behring, and the two Boehringer entities.)<sup>1/</sup> Defendants Abbott Laboratories Inc., Aventis Pharmaceuticals Inc., Baxter Healthcare Corporation, B. Braun Medical Inc., Ben Venue Laboratories Inc. and Bedford Laboratories, Boehringer Ingelheim Roxane Inc. f/k/a Roxane Laboratories Inc., Dey L.P. and Dey Inc., Mylan Laboratories Inc. and Mylan Pharmaceuticals Inc., Sandoz Inc., Schering-Plough Corporation and Warrick Pharmaceuticals Corporation, ZLB Berhing LLC f/k/a Aventis Behring LLC and Armour Pharmaceutical Co., filed their individual Answers on May 21, 2007. Defendant Abbott Laboratories Inc. filed an Amended Answer on June 1, 2007.

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<sup>1/</sup> California construes B. Braun of America's motion to dismiss (docket no. 2045) as moot, because California has dismissed B. Braun of America from the case (see electronic order filed May 26, 2006, entered May 31, 2006) as well as the only other entity to which B. Braun of America refers in its individual motion to dismiss, McGaw Inc. (see docket no. 2895.) B.Braun Medical, Inc. remains a defendant, and did not file a motion to dismiss.

**Case Management Order (CMO)**

Plaintiffs filed a Joint Motion for Entry of [Proposed] Case Management Order on June 26, 2007 (No. 4410). On July 2, 2007, the court issued an electronic order granting the motion but moved the deadlines back six months. The parties filed a Joint Motion for Clarification and Reconsideration of Case Management Order Deadlines on July 12, 2007 (No. 4455). On July 20, 2007, the court allowed the motion for reconsideration and set new deadlines. The parties jointly filed a letter requesting the entry of the case management order on July 25, 2007 (No. 4504).

**Alternative Dispute Resolution**

On July 24, 2007, the court entered an Order of Reference for Alternative Dispute Resolution (No. 4508) in several cases including this case.

**CERTIFICATE OF SERVICE**

I, Nicholas N. Paul, hereby certify that on August 1, 2007, I caused a true and correct copy of the foregoing, **STATUS REPORT-August 1, 2007**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Nicholas N. Paul  
NICHOLAS N. PAUL  
Supervising Deputy Attorney General